

Notice of Allowability

Application No.

08/765,287

Examiner

Khatol S Shahnan-Shah

Applicant(s)

LOCHT ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments of 8/4/04.
2. ☒ The allowed claim(s) is/are 1-7, 10-15, 18-22, 27-30, 34-35, 37 and 39-42 renumbered claims 1-29 respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date April 30, 2004.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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Attachment to Notice of Allowance

1. Applicants' amendment and response, received 04 August 2004 are acknowledged.

The amendment has been entered. Claims 28, 34 and 40 have been amended. Claims 8, 9, 36 and 38 have been canceled. Specification page 1 has been amended to include priority statement.

2. Claims 1-7, 10-15, 18-22, 27-30, 34-35, 37 and 39-42 are pending and under consideration.

Objection(s) Withdrawn

3. Objection to the specification made in paragraph 8 of the office action mailed 05/04/2004 is withdrawn in view of applicants' amendments.

4. Objection to claims 4 and 7 made in paragraph 11 of the office action mailed 05/04/2004 is withdrawn in view of applicants' explanation.

Objection(s) Moot

5. Objection to claims 8 and 9 made in paragraph 12 of the office action mailed 05/04/2004 is moot in view of applicants' cancellation of said claims.

Objection(s) Maintained

6. Objection to the drawing made in paragraph 10 of the office action mailed 05/04/2004 is maintained. Formal drawings are required in response to this action. Applicants are hereby given ONE MONTH from the mailing date of this letter or until the expiration of the period set in the "Notice of Allowance" (PTOL-85) or Notice of Allowability" (PTOL-37 or PTO-37), whichever is longer, to file formal corrected drawings.

Allowable Subject Matter

7. Claims 1-7, 10-15, 18-22, 27-30, 34-35, 37 and 39-42 are allowed. Claims are renumbered 1-29 respectively.

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The following is an examiner's statement of reasons for allowance:

The claims are drawn to a recombinant DNA encoding an immunogenic fusion protein, wherein said recombinant DNA comprises a sequence for a polypeptide heterologous with respect to a filamentous hemagglutinin of *Bordetella* (Fha) fused in the same reading frame with a sequence placed upstream from said sequence, said sequence coding for at least a part of the precursor of the Fha, this part comprising the site of interaction of the Fha with heparin, said sequence being placed under the control of a promoter recognized by the polymerases of a cell transformed with said recombinant DNA and when introduced into a cell culture is expressed in said cell culture or exposed at the surface of cells, wherein said recombinant DNA is expressed as an immunogenic translational fusion protein.

The prior art fails to teach such recombinant DNA encoding an immunogenic fusion protein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol S Shahnian-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on 7:30am-4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F Smith can be reached on (571)-272-0864. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.


For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khatol Shahnan-Shah, BS, Pharm, MS

Biotechnology Patent Examiner

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August 15, 2004



RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER